

LYNCHBURG CITY COUNCIL
Agenda Item Summary

MEETING DATE: **October 26, 2004, Work Session**

AGENDA ITEM NO.: 5

CONSENT:

REGULAR: **X**

CLOSED SESSION:
(Confidential)

ACTION: **X**

INFORMATION:

ITEM TITLE: **Zoning Ordinance Amendment – Care Centers / Family Day Home**

RECOMMENDATION: Forward to the Planning Commission revised Zoning Ordinance Amendments to address Family Day Homes.

SUMMARY: The City's Zoning Ordinance, Section 35.1-11.4(d), Care Center, currently requires child care facilities serving six (6) or more children in a residential district to obtain a Conditional Use Permit (CUP) from the City Council. There are currently ten (10) facilities in the City serving up to twelve (12) children that do not conform to the current Zoning Ordinance requirements.

During the July 13, 2004 and September 28, 2004 City Council meetings, the City Council expressed concern that the proposed amendments would not allow for public input. In order to address this concern, City staff has revised the proposed amendments to differentiate between care centers and family day homes (as defined in the State Code) and to provide a process for public notification and input.

The State Code, Chapter 15.2-2292, Zoning Provisions for family day homes (attached), provides that a locality may by ordinance allow the Zoning Administrator to use an administrative process to approve family day homes serving six (6) to twelve (12) children. This process would provide for the notification of adjacent property owners and a period of thirty (30) days for any objections to be raised. If no objections are received the Zoning Administrator would approve the facility administratively. If the Zoning Administrator denies the request after public objection, the facility would have the opportunity to obtain a CUP from the Planning Commission and the City Council. Allowing for an administrative approval process would provide for notice and comment by neighbors while eliminating the requirement for a site plan and an expensive application fee, unless objections necessitated a CUP.

PRIOR ACTION(S):

June 24, 2004: Planning Division recommended approval of the Zoning Ordinance Amendments.
Planning Commission recommended approval 5-0 (with 2 members absent) of the Zoning Ordinance Amendments.

July 13, 2004: City Council postponed action on the proposed Zoning Ordinance Amendments.

September 28, 2004: City Council postponed action on the proposed Zoning Ordinance Amendments.

FISCAL IMPACT: N/A

CONTACT(S): Rachel Flynn / 455-3902
Tom Martin / 455-3909

ATTACHMENT(S): Ordinance, Excerpt from the State Code

REVIEWED BY: lkp

Sec. 35.1-11.4. Terms beginning with “C”.

Terms used in the zoning ordinance, when defined in this section, shall have the following meaning:

- (a) Cemetery: A place used for the permanent commercial interment of dead bodies or the cremated remains thereof. It may be either a burial park for earth interments, a mausoleum for vault or crypt interments, a columbarium for cinerary interments or a combination thereof.
- (b) Certificate of occupancy: Authorization granted by the city for use of a lot or structure.
- (c) Channel: A natural or artificial depression of perceptible extent with a definite bed and banks to confine and conduct flowing water.
- (d) Care center: A day nursery, nursery school, day camp, summer camp, ~~family day care home~~ or other place ~~for where the reception or care is provided with or without compensation, of persons of any age and the primary use of the facility where said reception or care is provided is not a residence. For the purpose of the zoning ordinance, a facility providing day care only to less than six (6) persons in a residential setting shall not be considered a care center and shall not be subject to the restrictions of this section. Further, The term shall not include any family-type facility which provides child care to not more than five (5) children placed by order of any court of competent jurisdiction, or by any public welfare department or other government agency having responsibility of placing children for care.~~
- (e) Collector street: A public street currently classified as a collector street or programmed for improvement to collector-street status in the most recently approved city major thoroughfare plan.
- (f) Commercial building: A building used only for a commercial use.
- (g) Commercial use: Any use involving in part or in whole the storage of merchandise, sale of merchandise, materials or services, but not including home occupations, as defined in this Section 35.1-11.8.
- (h) Commercial parking garage: See Section 35.1-11.11, Parking garages.
- (i) Commercial parking lot: See Section 35.1-11.11, Parking lot.
- (j) Community facility use: A public use in private or public ownership run on a nonprofit basis. Examples are: churches, welfare centers, voluntary hospitals, or privately-endowed museums or libraries. Facilities of private, nonprofit membership organizations for use only by members thereof are also community facilities. Examples may be country clubs, golf courses or community swimming pools.
- (k) Comprehensive zoning map amendment: An amendment to the official zoning map where any of the following conditions exist:
 - (1) The area to be rezoned constitutes an entire neighborhood as defined in the comprehensive plan, or a group of such neighborhoods.

(2) The area to be rezoned includes at least four hundred (400) acres of ground.

(3) The area to be rezoned includes at least five (5) lots, except where all of the said lots are included in a subdivision to be developed as a whole by one developer.

(l) Conditional use: A permit to grant restricted use of property for uses other than those permitted by right.

(m) Conditional zoning or zone: A zoning district or portion thereof, which has been established pursuant to provisions of Article IX of the zoning ordinance and which is subject to reasonable conditions proffered in writing by the owner of the subject property and agreed to by the city council in a zoning action to which such conditions are applicable in addition to those regulations provided for that particular zoning district, or portion thereof, by the overall zoning ordinance.

(n) Conservation: Any action designed to keep a structure, area containing structures, or places from being damaged, lost or wasted.

(o) Construction, start of: The date the building permit was issued for new construction or substantial improvements, meaning the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement or other improvement was within one hundred eighty (180) days of the permit date.

(p) Court: An open area partly or wholly bounded by buildings, walls, or enclosures.

(q) Coverage, lot: The proportion of a lot covered by the maximum horizontal projected area of a building and its accessory buildings, including overhangs and projections. (Ord. No. O-90-047, 2-13-90; Ord. No. O-91-168, 7-9-91)

Sec. 35.1-11.7. Terms beginning with “F”.

Terms used in the zoning ordinance, when defined in this section, shall have the following meaning:

(a) Family:

(1) Two (2) or more persons related by blood or marriage, occupying a dwelling, living together and maintaining a household, including not more than one (1) unrelated person.

(2) Not more than three (3) unrelated persons occupying a dwelling, living together, and maintaining a household.

(b) Family Day Home: A child day program offered in the residence of the provider or the home of any of the children in care for one (1) through twelve (12) children under the age of thirteen (13), exclusive of the provider’s own children and any children who reside in the home, when at

least one (1) child receives care for compensation and meets the requirements of Chapter 63.2-100 of the Code of Virginia.

~~(b)~~ (c) Fire district: The territory defined and limited by the provisions of the BOCA Basic Building Code for the restriction of types of construction to ensure adequate fire protection.

~~(c)~~ (d) Flood: A temporary rise in stream flow or stage that results in inundation of the areas adjacent to the channel.

~~(d)~~ (e) Flood hazard area: The maximum area of the one hundred (100) year flood plain (as defined in regulations for the national flood insurance program) which is likely to be flooded, or for which mudslides can be reasonably anticipated.

~~(e)~~ (f) Flood plains: The areas of land adjoining a watercourse which have in the past, or can be reasonably expected in the future, to be covered temporarily by flood waters.

~~(f)~~ (g) Floodproofing: Combinations of structural provisions, changes or adjustments to properties and structures subject to flooding, primarily for the reduction or elimination of flood damages to properties, water and sanitary facilities, structures and contents of buildings in the regulatory flood plain.

~~(g)~~ (h) Floodway: The channel of a river or other watercourse and those portions of the adjoining flood plains which are reasonably required to discharge the water of the one hundred (100) year flood (base flood), without causing a more than one (1) foot rise at any point in the city as shown in the city's flood insurance study published by the Federal Emergency Management Agency.

~~(h)~~ (i) Floodway fringe: That portion of the one hundred (100) year flood plain outside of the floodway.

~~(i)~~ (j) Floor area: The sum of the gross areas of the several floors of a building or buildings, measured from the exterior faces of exterior walls or from the center lines of walls separating two (2) buildings. In particular, floor area includes:

(1) Basement space, except such space in a basement which has at least one-third (1/3) of its height below curb level, and which is located in a residential building with not more than two (2) stories entirely above curb level.

(2) Elevator shafts or stairwells at each floor.

(4) Attic space (whether or not a floor has been laid) providing structural headroom of eight (8) feet or more.

(5) Floor space in interior balconies or mezzanines.

(6) Floor space in open or roofed terraces, exterior balconies, breezeways, or porches, if more than fifty (50) per cent of the perimeter of such terrace, balcony, breezeway or porch is enclosed.

(7) Any other floor space used for dwelling purposes, no matter where located within a building, when not specifically excluded.

(8) Floor space in accessory buildings except for floor space used for accessory off-street parking.

Floor area of a building shall not include:

(1) Cellar space, except that cellar space used for retailing shall be included for the purpose of calculating requirements for accessory off-street parking spaces and accessory off-street loading berths.

(2) Elevator or stair bulkheads, accessory water tanks or cooling towers.

(3) Uncovered steps.

(4) Attic space, whether or not a floor actually has been laid, providing structural headroom of less than eight (8) feet.

(5) Floor space in open or roofed terraces, exterior balconies, breezeways or porches, provided that not more than fifty (50) per cent of the perimeter of such terrace, balcony, breezeway or porch is enclosed.

(6) Unenclosed floor space used for permitted or required accessory off-street parking spaces.

(7) Floor space used for accessory off-street loading berths.

(8) Floor space used for mechanical equipment.

~~(j)~~ (k) Floor area ratio: The total floor area on a zoning lot, divided by the lot area of that zoning lot. (For example, a building containing twenty thousand (20,000) square feet of floor area on a zoning lot of ten thousand (10,000) square feet has a floor area ratio of 2.0.)

~~(k)~~ (l) Freeway: A public highway to which access is forbidden except at interchanges with other public highways and, in some cases, at specially designed facilities providing automobile, restaurant and other similar services to motorists using the highway.

~~(l)~~ (m) Frontage: The horizontal length of the front lot line of a zoning lot abutting a public street, road, or highway, or rural right-of-way. (Ord. No. O-90-047, 2-13-90; Ord. No. O-95-052, 3-14-95)

Sec. 35.1-28. Conservation district (R-C).

(a) Intent. This district is intended to provide for very low development densities in areas not served by city sewer and water supply systems, areas with soils unsuitable for development or areas which should be preserved in low densities for other aspects of the public welfare.

(b) Uses permitted by right. The following uses will be permitted by right, subject to the regulations of the zoning ordinance:

(1) Agriculture (general farming, dairy farming, livestock farming, forestry, horticulture and all uses commonly classed as agricultural). The raising of three (3) or more cattle, goats, horses or other farm animals, and/or five (5) or more poultry or game animals will be permitted on lots of ten (10) acres or more. Any structure for housing or feeding one (1) or more such animals must be at least two-hundred (200) feet from any street or lot line but shall not include any commercial poultry farm or hog farm, and provided further that livestock and poultry shall be kept within secure enclosures and shall not be allowed to roam at large.

(2) One (1) single-family dwelling on each lot [ten (10) acres minimum].

(3) Farm produce stands selling only products grown on the premises.

(4) Telecommunication facilities (see Article XI. Telecommunications towers and facilities).

(5) Truck gardens (commercial and noncommercial).

(c) Uses prohibited. No subdivision development shall be permitted and no lot, building or structure shall be used and no building or structure shall be erected which is intended or designed to be used, in whole or in part, for any industrial, manufacturing, trade or commercial purposes except as provided in Section 35.1-27(e).

(d) Permitted accessory uses. The following accessory uses will be permitted in conservation districts subject to the regulations of Section 35.1-24 of the zoning ordinance:

(1) Home occupations, including any such occupation other than that of operating a beauty shop, barber shop, convalescent or nursing home, tourist home, massage or similar establishment offering services to the general public. Home occupations shall be carried on by a member of the family residing on the premises except that, in connection with the practice of a profession, one (1) person not residing in such dwelling unit may be employed. One (1) sign not exceeding one (1) square foot in area and fixed flat to the wall of the building shall be permitted for each street on which the lot abuts to identify the home occupation. No artificial lighting shall be used to illuminate the sign or exterior of the building, nor shall any display of products be made which will indicate from the exterior that the building is being used for any purpose other than that of a dwelling. No mechanical equipment shall be used except such as is customary for purely domestic or household purposes.

(2) Garages for the use of occupants of the property for purposes incidental to the residential use of property owner.

(3) Private recreational facilities.

(4) Family Day Home, providing day care only to less than six (6) children during a twenty-four (24) hour period and meeting the requirements of Chapter 63.2-100 of the Code of Virginia.

If after sending notification by registered or certified mail to the last known address of each adjacent property owner and if no written objections are received from persons so notified within

thirty (30) days of the mailing, the Zoning Administrator may administratively approve up to twelve (12) children in a family day home provided that all other requirements of the Zoning Ordinance and Chapter 63.2-100 of the Code of Virginia are met. In the event of a substantive change to the character of the surrounding neighborhood or an objection from the public such administrative approval may be revoked by the Zoning Administrator. If the petitioner is denied an administrative approval or if approval is revoked, the City Council may approve the family day home as a conditional use as provided in Section 35.1-15 of the Zoning Ordinance.

~~(4)~~ (5) Signs. (As provided in Sections 35.1-26 through 35.1-26.16)

(e) Uses permitted by conditional use permit. The following uses shall be permitted by conditional use permit under the regulations of Section 35.1-15 and Article X of the zoning ordinance:

- (1) Airports.
- (2) Antique stores.
- (3) Boardinghouse or lodging house (keeping of not more than one (1) non-transient boarder or roomer by a resident family).
- (4) Care centers.
- (5) Cemeteries.
- (6) Churches and other places of worship.
- (7) Clubs and fraternal organizations.
- (8) Community swimming pools.
- (9) Convents and monasteries.
- (10) Gate houses, guest houses, caretakers' cottages and other residential accommodations for servants or guests of a resident family.
- (11) Group homes.
- (12) Hospitals and sanitoriums.
- (13) Individual mobile homes.
- (14) Kennels and other small animal raising and boarding.
- (15) Mobile home parks.
- (16) Museums and art galleries.
- (17) Nursing homes.
- (18) Offices and research and development organizations.
- (19) Planned unit developments.
- (20) Police and fire stations.
- (21) Public and community recreation facilities.
- (22) Public utilities.
- (23) Riding academies and stables.
- (24) Schools and colleges.
- (25) Shooting ranges.
- (26) Telecommunication towers (see Article XI, Telecommunication towers and facilities).
- (27) Temporary fairs and carnivals.
- (28) Tourist homes or bed and breakfast.
- (29) Traditional neighborhood developments.
- (30) Trailer parks, campgrounds.

(f) Standards.

(1) Minimum lot size. The minimum lot size shall be ten (10) acres.

(2) Yards.

a. Front yards. A minimum setback of fifty (50) feet shall be provided from all lot lines and street rights-of-way. Where no right-of-way has been designated, the right-of-way line shall be assumed to be twenty-five (25) feet from the center line of the street.

b. Side yards. There shall be a side yard having a width of not less than fifty (50) feet on each side of the main building.

c. Rear yards. There shall be a rear yard having a depth of not less than fifty (50) feet.

(3) Area regulations. Each dwelling, together with its accessory buildings, hereafter erected shall be located on a lot having an area of not less than ten (10) acres with an average width of not less than one hundred fifty (150) feet at the required building line, street frontage at the street right-of-way line of not less than one hundred fifty (150) feet, and not less than five (5) acres per boarder; provided, however, that lots having less area or less width than herein required and of record at the time of the effective date of this section may be occupied by single-family dwellings only.

(4) Building height. In addition to the required minimum setback of fifty (50) feet, building heights shall not exceed one (1) foot of height for each two (2) feet of distance from the lot or street right-of-way line. No portion of any property may be divided from the zoning lot in the future in such a way as to bring the property into nonconformance with this regulation.

(5) Maximum ground coverage. The total ground area of all buildings and paved areas may not exceed ten (10) per cent of the area of the zoning lot.

(6) Parking requirements. Off-street parking and loading space shall be provided as required in Section 35.1-25 of the zoning ordinance. (Ord. No. O-78-352, 12-12-78; Ord. No. O-89-201, § 1, 7-11-89; Ord. No. O-89-248, § 1, 9-12-89; Ord. No. O-90-049, 2-13-90; Ord. No. O-97-246, 12-9-97; Ord. No. O-98-____, 7-14-98; Ord. No. O-04-074, 6-22-04)

Sec. 35.1-29. Low density residential districts (R-1), single-family.

(a) Intent. These districts are intended to provide for residential development at low densities, together with other compatible uses, in areas where streets and other services cannot support higher densities.

(b) Uses permitted by right. The following uses are permitted by right in low density residential districts:

(1) One (1) single-family detached dwelling on each lot.

(2) Two (2) family dwellings, in which the owner resides, provided there is but one (1) main entrance which is located in the front of the building and provided further, the building has no outside characteristics, such as outside stairs, other than those common to a single-family dwelling.

(3) Agriculture (see Section 35.1-28).

(4) Telecommunication facilities (see Article XI. Telecommunications towers and facilities).

(c) Prohibited uses. In any R-1 district no lot, building or structure shall be used and no building or structure shall be erected which is intended or designed to be used, in whole or in part, for any industrial manufacturing, trade or commercial purposes.

(d) Permitted accessory uses. The following uses will be permitted as accessory uses in low density residential districts subject to the regulations of Section 35.1-24 of the zoning ordinance:

(1) Accessory uses and structures customarily incident to any use permitted by this section, such as a private garage on the same lot with the building or within or attached to the building to which it is accessory; a private stable, building, or structure in which livestock or other farm animals are kept or fed, provided such structure is located at least two hundred (200) feet from any street or lot line; and a non-commercial poultry house, provided such structure is located at least twenty (20) feet from any street or lot line and provided further that livestock and poultry shall be kept within secure enclosures and shall not be allowed to roam at large. No accessory building shall be occupied or rented as a private domicile, except when such building fronts on a street thirty (30) feet in width, or when such building has a perpetual unobstructed easement of access at least thirty (30) feet wide to such street. No accessory building shall be used for gain, nor shall any such building be constructed upon a lot until the construction of the main building has actually commenced and no accessory building shall be used unless the main building on a lot is completed and used.

(2) Home occupations (see Section 35.1-28).

(3) Private recreational facilities.

(4) Family Day Home (As provided in Section 35.1-28d(4)).

(e) Uses permitted by conditional use permit. The following uses

shall be permitted by conditional use permit in low density residential districts subject to the regulations of Section 35.1-15 and Article X of the zoning ordinance:

(1) Boardinghouse or lodging house.

(2) Care centers.

(3) Cemeteries and columbariums.

(4) Churches and other places of worship, including parish houses and educational buildings.

(5) Clubs and fraternal organizations.

(6) Community swimming pools.

(7) Convents and monasteries.

- (8) Dwellings of any building type not prohibited by city or state law, except individual mobile homes.
- (9) Gate houses, guest houses, caretakers' cottages and other residential accommodations for servants or guests of a resident family.
- (10) Group homes.
- (11) Hospitals and sanitoriums.
- (12) Mobile home parks.
- (13) Museums and art galleries.
- (14) Nursing homes.
- (15) Planned unit developments.
- (16) Public or community recreational facilities not operated for profit.
- (17) Public utilities.
- (18) Schools and colleges for general education.
- (19) Telecommunication towers (see Article XI, Telecommunication towers and facilities).
- (20) Tourist homes or bed and breakfast.
- (21) Traditional neighborhood developments.

(f) Standards. Buildings and structures in low density residential districts shall meet the following standards, except as specified in Article X of the zoning ordinance for conditional use permit:

<u>R-1</u>	
Maximum net density	
(dwellings per acre)	2.90
(dwelling units per acre)	5.8
Minimum front yard (feet)	40
Minimum side yard (feet)	15
Minimum rear yard (feet)	50
Minimum lot size (square feet)	15,000
<u>R-1</u>	
Minimum street frontage at the street right-of-way line (feet)	100
Minimum lot width at building line (feet)	100
Maximum height (feet)	40
Maximum ground coverage (percent)	20.2

(1) Area regulations. Each dwelling, together with its accessory buildings, hereafter erected shall be located on a lot having an area of not less than fifteen thousand (15,000) square feet and not less than seven thousand five hundred (7,500) square feet per boarder; provided, however, that lots having less area or less width than herein required, and of record at the time of the effective date of this section on December 12, 1978, may be occupied by single-family dwellings only. Further, if a lot of record at the effective date of this section has less width than required, a new single-family dwelling or an addition to an existing single-family dwelling can be built and the side yard setback requirement can be reduced by fifty percent (50%) and the rear yard setback can be reduced by twenty-five percent (25%), provided the lot of record previously had a dwelling situated thereon.

(g) Signs. (As provided in Sections 35.1-26 through 35.1-26.16)

(h) Parking requirements. Off-street parking and loading space shall be provided as required in Section 35.1-25 of the zoning ordinance.

(1) Any owner of a travel trailer, boat and/or boat trailer, truck camper, inhabitable bus or recreational vehicle may park or store, but not inhabit, such equipment on any residential district or business B-1 or B-2 district providing such equipment is located behind the building line of the main structure on the property.

If any owner of a travel trailer, boat and/or boat trailer, truck camper, inhabitable bus or recreational vehicle cannot meet the conditions in item (1) above, such owner may apply to the board of zoning appeals for a variance for the parking or storing of such equipment. (Ord. No. O-78-352, 12-12-78; Ord. No. O-79-330, § 1, 11-13-79; Ord. No. O-85-140, § 1, 6-11-85; Ord. No. O-89-201, § 1, 7-11-89; Ord. No. O-89-248, § 1, 9-12-89; Ord. No. O-90-050, 2-13-90; Ord. No. O-93-123, 5-11-93; Ord. No. O-96-317, 12-10-96; Ord. No. O-97-246, 12-9-97; Ord. No. O-98-013, 2-10-98; Ord. No. O-04-074, 06-22-04)

Sec. 35.1-31. Medium density residential districts (R-3), two (2) family.

(a) Intent. These districts are intended to provide for residential and other compatible uses at medium densities in areas with a high level of road access and other public and commercial services and with topography and soils suitable for such development.

(b) Prohibited uses. Within any medium density residential district (R-3), as indicated on the official zoning map, no lot, building or structure shall be used and no building or structure shall be erected which is intended or designed to be used, in whole or in part, for any industrial, manufacturing, trade or commercial purposes.

(c) Uses permitted by right. The following uses will be permitted by right subject to the regulations of the zoning ordinance, including Section 35.1-14 "Site Plan Review:"

(1) Dwellings of any structure type not prohibited by city or state law, except individual mobile homes.

(2) Single-family dwellings.

(3) Two (2) family dwellings of all types.

(4) Public libraries, public museums and art galleries.

(5) The office of an architect, draftsman, planner, attorney-at-law, physician, osteopath, healer, conveyancer, dentist, surveyor, professional engineer (civil, electrical, mechanical or other), public accountant, minister or teacher residing in the dwelling or dwelling unit in which the office is located.

(6) Agriculture (see Section 35.1-28).

(d) Permitted accessory uses. The following uses will be permitted as accessories to principal permitted uses in medium density residential districts subject to the regulations of Section 35.1-24, "Accessory buildings and uses."

(1) Home occupations [see Section 35.1-28(d)].

(2) Garages for the use of occupants of the property.

(3) Private recreational facilities.

(4) Family Day Home (As provided in Section 35.1-28d(4)).

(e) Uses permitted by conditional use permit. The following uses shall be permitted in medium density residential districts as conditional use, subject to the regulations of Section 35.1-15 and Article X of the zoning ordinance:

(1) Uses permitted as conditional use in low and low-medium density residential districts except those uses that are permitted by right in medium density residential districts [see Section 35.1-31(c)].

(2) Off-street parking lots serving:

a. Permitted uses in medium density residential districts located within two hundred (200) feet of the lot to be used for off-street parking.

b. Commercial uses in a business district where the said commercial use is adjacent to the lot to be used for off-street parking.

(3) Schools for specific educational purposes such as for technical or vocational training; provided, all operations must be conducted within an enclosed building; and provided further, that all such buildings must be at least one hundred (100) feet from any adjoining property line or street.

(4) Townhouse units for sale (see Section 35.1-56).

(5) Rooming houses.

(f) Standards. Buildings and structures in medium density residential districts shall meet the following standards, except as specified for conditional permit uses in Article X of the zoning ordinance:

<u>R-3</u>	
Maximum net density	
(dwellings per acre)	5.45
(dwelling units per acre)	10.89
Minimum front yard (feet)	30
Minimum side yard (feet)	8

Minimum rear yard (feet)	30
Minimum lot size (square feet)	8,000
Minimum street frontage at the street right-of-way line (feet)	60
Minimum lot width at building line (feet)	60
Maximum ground coverage (percent)	30

Maximum height: the maximum within setback lines shall be forty (40) feet except that, where the lot size permits, maximum height shall be one-half (1/2) the distance to the nearest lot line.

(1) Area regulations. Each dwelling, boardinghouse or lodging house, together with its accessory buildings, shall be located on a lot having an area of not less than four thousand (4,000) square feet for each family unit, boarder, or roomer, except that the minimum area for any such lot shall be eight thousand (8,000) square on December 12, 1978 feet; provided, however, that a lot having less area or less width than herein required, and of record at the time of the effective date of this section on December 12, 1978, may be occupied by a single-family dwelling only. Further, if a lot of record at the effective date of this section has less width than required, a new single-family dwelling or an addition to an existing single-family dwelling could be built and the side yard setback requirement can be reduced by fifty percent (50%) and the rear yard setback can be reduced by twenty-five (25%), provided the lot of record previously had a dwelling situated thereon.

(2) Area regulations for townhouse units for sale. For applicable regulations see Section 35.1-56 of the zoning ordinance.

Townhouse units for sale in an R-3 district shall not exceed the maximum net density permitted in an R-3 district.

(g) Signs. (As provided in Sections 35.1-26 through 35.1-26.16)

(h) Parking requirements. Off-street parking and loading space shall be provided as required in Section 35.1-25 of the zoning ordinance. (Ord. No. O-78-352, 12-12-78; Ord. No. O-79-330, § 1, 11-13-79; Ord. No. O-85-140, § 1, 6-11-85; Ord. No. O-89-201, § 1, 7-11-89; Ord. No. O-89-248, § 1, 9-12-89; Ord. No. O-90-052, 2-13-90; Ord. No. O-93-123, 5-11-93; Ord. No. O-96-317, 12-10-96; Ord. No. O-04-074, 06-22-04)